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PERRY COUNTY

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WESLEY T HARLAN
CLERK OF COURT

IN THE COMMON PLEAS COURT
PERRY COUNTY, OHIO

HEATHER ANDERS
264 DRINLEY DRIVE
ZANESVILLE, OH 43701
Plaintiff

21-CV-00215
Case number

Judge Tina Boyer

V

PERRY COUNTY SHERIFF DEPARTMENT
C/O SHERIFF WILLIAM BARKER
110 W. BROWN STREET
NEW LEXINGTON, OH 43765

AND

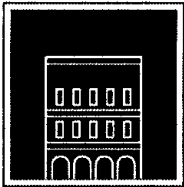
WILLIAM R. BARKER
SHERIFF OF PERRY COUNTY
110 W. BROWN STREET
NEW LEXINGTON, OH 43765

VERIFIED COMPLAINT

AND

DEPUTY ANDREW LOVE
PERRY COUNTY SHERIFF DEPARTMENT
110 W. BROWN STREET
NEW LEXINGTON, OH 43765

Defendants.



**GOTTLIEB, JOHNSTON,
BEAM & DAL PONTE, PLLC**

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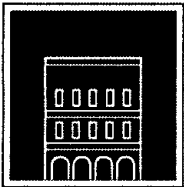
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FIRST CAUSE OF ACTION

1. At all times material to the filing of this Complaint, Plaintiff was and still is the owner of the following property and is entitled to immediate possession of all of it: 2011 Cadillac DTS, prescription medication, a purse, bank card from People's Bank, \$1100 in cash, approximately \$100 in lottery tickets, driver's license, birth

certificate, car insurance card, a bag of brand new woman's clothing, black iPhone XR, daughter's clothing, food card, and Molina Health Care insurance card.

2. On or about September 16, 2021, within the territorial jurisdiction of this Court, Defendant Andrew Love, while within the course and scope of his employment as a Perry County Deputy Sheriff on behalf of Defendant Perry County Sheriff's Department and Defendant Sheriff William Barker wrongfully and maliciously seized possession of all of the aforementioned property items.
3. The purported basis for the seizure of these items was that Plaintiff had allegedly suffered a drug overdose, however the Defendants do not have evidence that she had overdosed on any illegal drug as her actions at the time on September 16, 2021 could have been the result of some other medical problem.
4. On the aforementioned date Plaintiff had medical assistance administered to her by emergency squad personnel and was then transported to Genesis Hospital.
5. Following a two night stay at the hospital, Plaintiff was discharged.
6. Subsequent to her discharge from the hospital, Plaintiff, on her own behalf and through counsel, has contacted the Perry County Sheriff's Department, has spoken with Defendant Love and has left messages for the Perry County Prosecutor and Lt. Kevin Starrett of the Perry County Sheriff's Department in an effort to recover possession of her above-described personal property.
7. Despite the efforts outlined in the preceding paragraph, Defendants have refused to return possession of any of her above-described property items to her.
8. Plaintiff has suffered and is continuing to suffer irreparable harm based upon Defendants' refusal to return her personal property to her in many ways, including but not limited to the following: Plaintiff has been hired for a new job and the inability to use her vehicle creates a substantial risk that she will be unable to travel to work, thereby causing her to lose her job; the prescription medication is necessary for her health and wellbeing, the lack of which may cause her to suffer significant injury and health issues; her identification is necessary for many reasons; her food card and her cash are necessary in order for her to procure certain necessary items, such as food.
9. The aforementioned property items were seized without a search warrant, were not seized from the person of the Plaintiff; none of these items constitute contraband; the items were seized in the absence of any evidence that they were related in any way to any drug or other criminal activity, in addition to which Plaintiff has not been charged with a crime.



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10. The aforementioned items are not subject to forfeiture pursuant to Chapter 2981 of the Ohio Revised Code as they are not related to any activity that could result in the Plaintiff being charged with a criminal offense as Plaintiff, even in the event that Defendants could prove that she had suffered a drug overdose, pursuant to RC 2925.11 has already sought medical assistance for her alleged drug overdose and, as a qualified individual pursuant to RC 2925.11 (B) (2) cannot be charged with a crime for mere possession or use of a controlled substance, a fact that has already been conveyed to Defendant Love.
11. The mere possession of the aforementioned personal property items is not unlawful and the Defendants cannot prove that any factors or evidence exists that Plaintiff used any of the aforementioned items in the commission of a criminal offense.
12. Plaintiff is entitled to a Writ of Replevin as she has a legal right to immediate possession of her personal property that is being held by the Defendants wrongfully and unlawfully.

SECOND CAUSE OF ACTION

13. Plaintiff incorporates the allegations set forth in Paragraphs 1 through 12, inclusive, as though fully rewritten herein.
14. Defendants actions have violated the Plaintiff's civil rights in the following manner: The Fourth Amendment to the United States Constitution provides for people to be free of warrantless searches and seizures. Defendants obtained possession of Plaintiff's personal property items without benefit of a warrant and without probable cause of the commission of a chargeable criminal offense.
15. Defendants' actions have further violated the Plaintiff's civil rights in that her due process rights under the Fifth Amendment to the United States Constitution, made applicable to the states through the Fourteenth Amendment and Article 1 of the Ohio Constitution prohibit depriving individuals of life, liberty or property without due process of law.
16. The seizure of Plaintiff's personal property items was unconstitutional.

THIRD CAUSE OF ACTION

17. Plaintiff incorporates the allegations set forth in Paragraph's 1-16, inclusive, as though fully rewritten herein.
18. By reason of their unlawful taking of Plaintiff's personal property and their refusal, despite being requested to do so, to return possession of her property to her,

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Defendants have converted Plaintiff's property to their own use.

Wherefore, Plaintiff demands judgment against the Defendants, jointly and severally, for a sum in excess of \$25,000 sufficient to compensate her for her injuries and damages; for punitive damages in a sum in excess of \$100,000 for the wrongful, unlawful, and malicious acts in seizing Plaintiff's property and refusal to return it to her; for a Writ of Replevin for the immediate return of all of her personal property; for attorney fees, court costs, and such further legal and equitable relief to which the Plaintiff shall be entitled.

RESPECTFULLY SUBMITTED,



Miles D. Fries (0016415)

Attorney for Plaintiff

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VERIFICATION

I, **Heather Anders**, being first duly cautioned and sworn, state that the answers to the foregoing Interrogatories are true and correct to the best of my knowledge and belief.



NAME

STATE OF OHIO


:

SS

COUNTY OF MUSKINGUM

:

Sworn to and subscribed before me this 27th September 2021, a Notary Public for the State of Ohio, County of Muskingum.



NOTARY PUBLIC, STATE OF OHIO



LORI M SHOOK
Notary Public
State of Ohio
My Comm. Expires
July 11, 2026

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REQUEST FOR SERVICE

Please issue a summons, a copy of the Complaint and all ancillary documents, upon the Defendants, Perry County Sheriff Department, c/o William Barker, William R. Barker, Sheriff of Perry County and Officer Brian Alexander at the addresses set forth above by personal service by process server Chris Wise and make the same returnable according to law.



Miles D. Fries (0016415)
Attorney for Plaintiff

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